

Message from Carrie Lopez, Director of the Department of Consumer Affairs

For those of you I haven't yet met, I'm Carrie Lopez, Director of the Department of Consumer Affairs.

I'm here today to address the critical issue of fingerprinting.

Fingerprinting licensees provides us with an important tool to identify criminal behavior and keep them away from vulnerable Californians.

I know the BRN was an early proponent of fingerprinting new applicants - that, coupled with the fact that you license professionals who are with Californians at our most vulnerable of times is why this board is the right one to take the lead on this issue and establish a model system other boards can soon follow.

Today . . . the Board of Registered Nursing becomes the first of DCA's Boards or Bureaus to impose fingerprinting on all licensees— regardless of when they first became licensed.

In this way, the Board and its staff will reinforce their commitment to protecting the health and safety of consumers and to promoting quality Registered Nursing care in California.

The people of California deserve no less.

I want to reiterate that the Department is here to support you for this consumer protection initiative or ANY consumer protection initiative you may take up in the future.

BOARD OF REGISTERED NURSING

Executive Officer's Report

Agenda Item: 4.0

Date: October 23, 2008

1.0 Board's Update: Recent Media Coverage

The mission of the Board is to protect the health and safety of consumers by promoting quality registered nursing care in the State of California. The Board continues to be committed to consumer protection by ensuring that registered nurses are safe and competent practitioners. We take this mandate very seriously.

The BRN recently received adverse media attention in a number of newspapers. The articles identified licensed RNs who were convicted of crimes that had not been reported to the Board by the courts, employers, co-workers, or other sources. These RNs were issued licenses prior to the 1990 fingerprint requirement.

The Board licenses over 360,000 Registered Nurses in California. The vast majority of RNs are safe and competent practitioners who are practicing without any criminal or disciplinary actions taken against their license. The Board receives complaints on less than 1½ percent of all nurses licensed in this state.

In 1990, the California BRN was the first state in the nation to require fingerprints for all RN applicants, including exam applicants and out-of-state RNs seeking California licensure. Since implementing the fingerprinting requirement in 1990, the Board has fingerprinted more than 562,000 applicants seeking RN licensure in California.

The Board continually strives to put in place all mechanisms that strengthen consumer protection. We employ a number of methods to learn of convictions and other acts by RNs. For example:

- In 1993 the Legislature required the courts to report to the appropriate licensing board all convictions for anyone who holds a professional license in the state and was convicted of a crime.
- Section 800 (et seq.) of the Business and Professions Code requires insurers to report RN malpractice settlements and arbitration awards to the Board.
- The Board receives complaints on RN convictions and practice violations from the public, employers, health care providers, and other governmental health agencies. The BRN has worked diligently to make it easy for anyone to file a complaint with our office, to check the status of a license, or ask questions using the Board's public information center or Web site.
- For out-of-state RN applicants, the Board utilizes the national nurse database, Nursys, to determine that the license is current and that no disciplinary action has been taken by other RN licensing boards. Also, the Board reports all of its disciplinary actions against California RNs to the Nursys national database to inform other state nursing boards.

How the Board Has Responded

The California Board of Registered Nursing has taken a number of steps to further strengthen our enforcement program.

1. With the support of the Department of Consumer Affairs, all renewal applications now include a question about criminal convictions. Both online renewals and paper-based renewals now ask RNs: "Since your last renewal, have you been convicted of, or pled nolo contendere, to any violation of the law in this or any other U.S. state or foreign country?" This conviction question was posted online on October 8, 2008, and the question was added to the paper renewal form that was mailed on October 18, 2008.
2. The next item on today's agenda will give the Board the opportunity to: "Approve/Not Approve Proposed Emergency Regulation Amending Section 1419, Title 16, California Code of Regulations, Division 14, Article 2, Registration and Examination." The goal, should this agenda item be approved, is to develop an emergency regulation and submit the package to the Office of Administrative Law. This will give the Board the authority to retroactively fingerprint all RNs licensed prior to 1990 upon renewal. This fingerprint requirement will **not** apply to those RNs that maintain an inactive RN license or are actively serving in the military outside of the country; however, at the time of activating the RN license to a current active status the fingerprint requirement will apply.
3. The Board of Registered Nursing requested and has been given 8 new positions in the Enforcement Program that will provide the necessary infrastructure to act on all conviction information received from either the RN renewal candidate or from the criminal offender record information that will be received from the Department of Justice and the FBI.

I want to personally acknowledge the tremendous support that our Board has received from the State and Consumer Services Agency, the Department of Consumer Affairs, the nursing profession and healthcare industry. The Board has always been at the forefront of consumer protection, and we look forward to continuing our mission of public protection.

BOARD OF REGISTERED NURSING
Agenda Item Summary
Administrative Committee

AGENDA ITEM: 5.1
DATE: October 23, 2008

ACTION REQUESTED: Approve/Not Approved Proposed Emergency Regulation Amending Sections 1419, 1419.1, 1419.3, Title 16, California Code of Regulations, Division 14, Article 2, Registration and Examination – concerning fingerprinting and disclosure of convictions upon renewal

REQUESTED BY: LaFrancine Tate, President
Chairperson, Administrative Committee

BACKGROUND:

The Board is proposing an emergency regulation change that requires the fingerprinting of all registered nurses who were licensed prior to the 1990 fingerprint requirement at the time of their biennial license renewal. In addition, the change will require that upon renewal, all licensees must disclose whether they have been convicted of any violation of law since they last renewed their license.

Upon the Board's approval of the proposed changes to the California Code of Regulation Sections, the Board will submit the emergency regulation package for review and approval to all the various approving offices within the Department and Agency. On November 3, 2008, the Board will send a notice to all stakeholders and interested parties announcing the emergency regulation is in process before filing with the Office of Administrative Law (OAL).

By mid-November, the Board will file the emergency regulation package to OAL and they have ten (10) working days in which to approve the emergency regulation package.

NEXT STEP: Refer to the attached timeline

**FINANCIAL
IMPLICATIONS,
IF ANY:** To be determined

PERSON TO CONTACT: Ruth Ann Terry, MPH, RN
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§ 1419. Renewal of License

(a) A renewal application shall be on the form provided by the board, accompanied by the fee specified in Section 1417(a)(3) and required information and filed with the board at its office in Sacramento.

(b) For a license that expires on or after March 1, 2009, as a condition of renewal, an applicant for renewal not previously fingerprinted, or for whom a record of the submission of fingerprints no longer exists, is required to furnish to Department of Justice, as directed by the board, a full set of fingerprints for the purpose of conducting a criminal history record check and to undergo a state and federal level criminal offender record information search conducted through the Department of Justice. Failure to submit a full set of fingerprints to the Department of Justice on or before the date required for renewal of a license is grounds for discipline by the board. It shall be certified on the renewal form whether the fingerprints have been submitted. This requirement is waived if the licensee is renewed in an inactive status, or is actively serving in the military outside the country.

(c) As a condition of renewal, an applicant for renewal shall disclose on the renewal form whether he or she has been convicted, as defined in Section 490, of any violation of the law in this or any other state, the United States, or other country, omitting traffic infractions under \$300 not involving alcohol, dangerous drugs, or controlled substances.

(d) Failure to provide all of the information required by this section renders any application for renewal incomplete and not eligible for renewal.

Note: Authority cited: Sections 2715 and 2761(f), Business and Professions Code. Reference: Sections 2715, 2761(f) and 2811, Business and Professions Code; and Section 11105(b)(10), Penal Code.

§ 1419.1. Inactive License.

A license may be maintained in an inactive status by paying the renewal fee as it becomes due. The licensee shall not practice nursing during the time the license is inactive.

To activate an inactive license, the licensee must submit a written request and evidence of 30 hours of approved continuing education taken during the two year period immediately preceding the request for activation. A licensee activating a license pursuant to this section shall furnish a full set of fingerprints as required by and set out in section 1419(b) as a condition of activation.

Note: Authority cited: Sections 2715 and 2761(f), Business and Professions Code. Reference: Sections 2734 and 2761(f), Business and Professions Code; and Section 11105(b)(10), Penal Code.

§ 1419.3. Reinstatement of Expired License.

In the event a licensee does not renew his/her license as provided in Section 2811 of the code, the license expires. A licensee renewing pursuant to this section shall furnish a full set of fingerprints as required by and set out in section 1419(b) as a condition of renewal.

(a) A licensee may renew a license that has not been expired for more than eight years by paying the renewal and penalty fees as specified in Section 1417 and providing evidence of 30 hours of continuing education taken within the prior two-year period.

(b) A licensee may renew a license that has been expired for more than eight years by paying the renewal and penalty fees specified in Section 1417 and providing evidence that he or she holds a current valid active and clear registered nurse license in another state, a United States territory, or Canada, or by passing the Board's current examination for licensure.

Note: Authority cited: Sections 2715, 2761(f), and 2811.5, Business and Professions Code. Reference: Sections 2761(f), 2811 and 2811.5, Business and Professions Code; and Section 11105(b)(10), Penal Code.

Timeline for Board Meeting and Fingerprinting Regulation Package

October 10, 2008	Post Agenda for BRN Special Board Meeting - Emergency Regulations
October 23, 2008	Board Meeting – Ontario, California
October 24, 2008	LPR receives Board approved proposed language, finding of emergency and Form 399
October 28, 2008	LPR, Legal and Budget review – package to Executive
October 29, 2008	Executive review complete and file to Agency
October 31, 2008	Approved file returned from Agency, Form 399 signed
November 3, 2008	Notice sent to stakeholders announcing the emergency regulations are in process (five working days before filing with OAL)
November 12, 2008	Final approval file sent to OAL
November 26, 2008	OAL decision (they have 10 working days)
November 26, 2008	If OAL approves emergency regulation they will be effective today
End of May 2009	The Board has 180 days for the normal regulation process that must be completed by this date.

Guide to Proposed Regulation Changes

All proposed regulation changes with a black single underline are new words being added to the regulation.